

REMARKS

None of the claims have been amended or cancelled. Claims 24, 27-34, and 36-54 are pending and under consideration. Claims 24, 34, 39 and 47 are the independent claims. No new matter is presented in this Amendment.

OBJECTION TO THE DRAWINGS:

Fig. 5 is objected to due to a minor informality. Applicants have amended Fig. 5 to correct the direction of the arrows of the receiving part of the system. Accordingly, Applicants respectfully request that the objection to Fig. 5 be withdrawn.

Figs. 1 and 2 are objected to as not being properly labeled. Applicants have amended Figs. 1 and 2 to label them as "Prior Art." Accordingly, Applicants respectfully request that the objection to Figs. 1 and 2 be withdrawn.

REJECTIONS UNDER 35 U.S.C. §103:

Claims 39-43, 45-46, 47-51 and 53-54 are rejected under 35 U.S.C. §103(a) as being unpatentable over Birru et al. (U.S. Patent Application Publication No. 2003/0099303) cited by Applicant, in view of Mousley (U.S. Patent No. 5,233,349).

Regarding the rejection of independent claim 39, it is noted that claim 39 recites a digital broadcast receiver, comprising: a tuner to receive a data stream including known data; and a processor to process the data stream using the known data included in the data stream, wherein the data stream is transmitted from a digital broadcast transmitter comprising a known data generator to generate known data, a known data inserting unit to add the known data to the data stream, and a Trellis encoder to perform Trellis encoding using internal memories and to reset the internal memories at a predetermined time point according to a control signal for controlling Trellis reset.

The Office Action relies on Birru for a teaching of some of the features of independent claim 1, and in particular, cites paragraph [0067] of Birru for a teaching of the transmitter comprising the known data generator and the known data inserting unit. Initially, Applicants respectfully note that the Examiner fails to indicate which elements described in paragraph

[0067] of the reference represent the known data, the known data generator to generate the known data, and the known data inserting unit.

Birru simply discloses in paragraph [0067] a packet formatter 115 which is part of a transmitter 300. The packet formatter 115 provides a function that depends on the symbol mapping MODE and NRS parameters. For example, if NRS=0, then the packet formatter performs the function of byte duplication or byte rearrangement (block 413). If NRS=1 then the packet formatter 115 also inserts `place holders` for the additional header and parity bytes (blocks 421 and 431). Accordingly, Birru simply discloses a packet formatter manipulating data according to a symbol mapping mode. There is no teaching or suggestion in Birru that the packet formatter is a known data generator or a known data inserting unit nor is there any teaching of suggestion in the reference of the known data.

Furthermore, even assuming that the packet formatter were the claimed known data generator and the place holders were the claimed known data, Birru still fails to teach or suggest the known data inserting unit which adds the know data to the data stream. Accordingly, Applicants respectfully assert that Birru fails to teach or suggest, at least, this novel feature of independent claim 39.

Moulsley, on the other hand, is relied upon for a teaching of features other than those discussed above, and furthermore fails to teach or suggest a digital broadcast transmitter comprising a known data generator to generate known data, and a known data inserting unit to add the known data to the data stream. Therefore, Moulsely fails to cure the deficiencies of Birru.

Regarding the rejection of independent claim 47 it is noted that this claim recites some substantially similar features as claim 39. Thus, the rejection of this claim is also traversed for similar reasons as set forth above.

Accordingly, Applicants respectfully assert that the rejection of claims 39 and 47 under 35 U.S.C. § 103(a) should be withdrawn because neither Birru nor Moulsley, whether taken singly or combined, teach or suggest the novel features of independent claims 39 and 47.

Regarding the rejection of claims 40-43, 45, 46, 48-51, 53 and 54, it is noted that these claims depend from independent claims 39 and 47.

Accordingly, Applicants respectfully assert that the rejection of dependent claims 40-43,

45, 46, 48-51, 53 and 54 under 35 U.S.C. §103(a) should be withdrawn at least because of their dependency from claim 39 and 47, and the reasons set forth above, and because the dependent claims include additional features which are not taught or suggested by the prior art. Therefore, it is respectfully submitted that claims 40-43, 45, 46, 48-51, 53 and 54 also distinguish over the prior art.

DOUBLE PATENTING REJECTIONS:

Claims 39-43, 45-46, 47-51, 53-54 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of co-pending Application Serial No. 12/261,826 and claims 1-6 of co-pending Application 12/261,826.

As an initial point, it is respectfully noted that the instant application has a filing date of March 12, 2007, whereas co-pending U.S. Patent Application No. 12/261,826 has a filing date of October 31, 2008 and co-pending U.S. Patent Application No. 12/261,842 has a filing date of October 30, 2008. Therefore, U.S. Patent Application No. 12/261,826 and U.S. Patent Application No. 12/261,842 have later filing dates than the instant application.

MPEP 804 states that "If a "provisional" non-statutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications... the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer."

Accordingly, it is respectfully requested that the Examiner withdraw any provisional double patenting rejection of the instant application in view of the later filed U.S. Patent Application No. 12/261,826 and U.S. Patent Application No. 12/261,842.

ALLOWABLE SUBJECT MATTER:

Claims 24, 27-33, 34, 36-38 are allowed.

Claims 44, 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 503333.

Respectfully submitted,

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